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HUMAN RIGHTS COMMITTEE

Sixty-sixth session

SUMMARY RECORD OF THE 1758th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 July 1999, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

later: Mr. AMOR

later: Ms. MEDINA QUIROGA

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GE.99-42941 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Initial report of Cambodia (CCPR/C/81/Add.12, HRI/CORE/1/Add.94, CCPR/C/65/Q/KHM/1)

1. At the invitation of the Chairperson, Mr. Om Yentieng, Mr. Ok Vannarith and Mr. Ith Rady (Cambodia) took places at the Committee table.

2. The CHAIRPERSON welcomed the Cambodian delegation, which consisted of Mr. Om Yentieng, Chairman of the Cambodian Human Rights committee, Mr. Ok Vannarith, a member of the Committee, and Mr. Ith Rady, Permanent Secretary of the Committee, who had drafted the initial report.

3. Mr. LALLAH said that, having taken part in a mission to Cambodia as a member of the Group of Experts for Cambodia appointed by the Secretary-General of the United Nations (A/53/850-S/1991/231) to assist the Cambodian authorities in resolving the problem posed by acts of genocide, he would be unable to participate in the consideration of Cambodia's periodic report.

4. Mr. OM Yentieng (Cambodia) said that the process of establishing the rule of law in his country had passed through three main stages. The first had begun on 7 January 1979 when the Pol Pot regime, which had imposed a reign of terror on the country for three years and 20 days, had been overthrown. The second had begun with the elections held in May 1993 under the auspices of the United Nations Transitional Authority in Cambodia (UNTAC), which had constituted a real turning point in the country's history. The beginning of the third stage had coincided with the elections held in 1998, which had been a real challenge, given that fighting had still been raging in Phnom Penh scarcely one year earlier. Another significant fact was that those elections had been the most important ever held in Cambodia, since every region in the country had taken part.

5. Replying to the questions contained in paragraphs 1 to 16 of the list of issues to be taken up (CCPR/C/65/Q/KHM/1), he said that, following Cambodia's liberation, a national tribunal had been created in 1979 for the purpose of trying those responsible for the genocide. Although the sentences handed down at the time had been deemed inadequate by the international community, the proceedings had made it possible to gather incriminating evidence and various testimonies which would prove to be extremely useful at the trial of the Khmer Rouge leaders.

6. In that connection, the case of Ta Mok, one of the Khmer Rouge leaders currently in detention, presented a problem. Under Cambodian legislation, the pre-trial detention period cou d not exceed six months and it was already over three months since Ta Mok had been arrested. As there would be no swift adoption of the bill to establish a special tribunal competent to try the perpetrators of acts of genocide and on which international judges could sit alongside Cambodian judges, it would be necessary to find a means of bringing Ta Mok to justice before the end of the pre-trial detention period. Cambodian jurists had proposed that he should be initially tried under the law which had

outlawed the Khmer Rouge, notwithstanding that he might reappear before judges to answer for his participation in acts of genocide once the aforementioned bill had been adopted.

7. The independence of the judiciary was guaranteed by the King with the assistance of the Supreme Council of Justice and judicial institutions were protected from all political interference by the mechanisms in place. Judges could be neither punished nor removed. Any State official or member of the armed forces who attempted to intimidate judges incurred administrative punishments and prosecution. The Supreme Court was currently focusing its efforts on strengthening the protection of judges against that type of influence, and the Human Rights Committee had been given wide scope in that respect. The inspection reports which it produced on the conduct of State officials were submitted directly to the Supreme Council of Justice, which took the necessary decisions in that respect.

8. Concerning the status of international instruments in domestic legislation, article 31 of the Cambodian Constitution stipulated that the Kingdom of Cambodia recognized and respected human rights as defined in the Charter of the United Nations and the Universal Declaration of Human Rights, as well as in all treaties and conventions concerning human rights and the rights of women and children. The Constitutional Council referred to that article in its analysis and interpretation of laws. Moreover, any bill submitted to the Parliament was accompanied by copies of the different human rights instruments with the aim of ensuring that any legislative enactments adopted were consistent with international standards.

9. The Constitutional Council consisted of nine members, of whom three were appointed by the King, three were designated by the National Assembly and three by the Supreme Council of Justice. In addition to its functions of ensuring compliance with the Constitution and human rights, the Constitutional Council was empowered to consider general election disputes.

10. The King, the Prime Minister and the President of the National Assembly could ask the Constitutional Council to decide on the constitutionality of a law prior to its promulgation. In the case of laws already in force, that power was exercised not only by those authorities, but also by the courts.

11. In connection with respect for the principle of equal rights, it should be stressed that, even though article 31 of the Constitution referred only to Cambodian citizens, all inhabitants of Cambodia, including aliens, were protected by the law. Anyone who believed himself to have suffered a violation of his rights could take his case to court.

12. Cambodia currently had four institutions responsible for defending human rights: the Senate Human Rights Committee, the National Assembly's Commission on Human Rights (paragraph 33 of the report), the National Human Rights Commission and the Human Rights Committee, a civil body in which 18 non-governmental organizations were represented. Plans were currently under way to establish a supreme national human rights institution. The authorities, aided by a Canadian expert, and non-governmental organizations were currently engaged in separate efforts to draft a bill to that effect.

The laws formulated would be submitted to the National Human Rights Commission, which would have the task of combining them into a single bill to be submitted to the National Assembly for consideration and adoption.

13. The Cambodian authorities were also giving serious thought to ratifying the First Optional Protocol to the Covenant; experts had been assigned to study the matter.

14. In Cambodia, there was neither de facto nor de jure discrimination against women. Of the 100,000 jobs created during the last three years, 80 per cent had been taken by women. Furthermore, four all-women parties had run in the 1998 elections and the Ministry of Women's and Veterans' Affairs was headed by two women, who held the ranks of minister and secretary of state respectively. The admittedly low percentage of women deputies was attributable to the composition of the political parties which sat in the Parliament. Similarly, the fact that there were fewer women in government bodies than under the former regime, before the Khmer Rouge came to power, was not the result of a deliberate policy to exclude women from key positions. On the contrary, in the selection of candidates for public office, women were given priority. In school there was no distinction between girls and boys. The fact that higher numbers of boys attended university was attributable to tradition and to certain social and economic factors. For instance, girls married much earlier than boys and faced difficulties if they tried to attend an establishment a long way from the parental home.

15. During the events of July 1997 and with the assistance of national institutions and human rights organizations, the Government had successfully avoided recourse to the extreme measure of declaring a state of emergency, even though empowered to do so under article 22 of the Constitution. That had proved to be a wise decision.

16. The term "extrajudicial execution" was inappropriate in the case of Cambodia, being a country where the death penalty was no longer in force. Nonetheless, any attempted murder constituted a criminal act, which had to be punished as such. In order to address the problem of violence, all illegally held arms had been confiscated and the restrictive measures recently adopted had even made it possible to reduce the number of persons legally entitled to possess arms.

17. Article 51 of the 1994 Law on Civil Servants gave rise to very different opinions. The current Prime Minister and the former Minister of Justice had declared themselves clearly in favour of its repeal, whereas other prominent figures were opposed to that measure. The working group of the political parties sitting in the National Assembly, for example, which had drafted the Government's programme of work before the latter had taken office, had been in favour of keeping the article. Once the Government had taken office, however, the Prime Minister proposed to the Council of Ministers that it should be repealed.

18. The National Assembly had already adopted the law prohibiting the manufacture, use, stockpiling and importation of anti-personnel mines, which had been promulgated by the King on 28 May 1999.

19. As for the prohibition on torture, he first wished to make clear that there were no secret prisons in Cambodia. The warden of the prison in Battambang (paragraph 138 of the report) had been tried and sentenced to a penalty of imprisonment and ordered to compensate the persons whose rights had been violated. The military police officer from Prey Veng province who had beaten a suspect had also been dismissed from office and had been given a prison sentence. In Kampong Cham province, a police inspector had been sentenced by the court for having kept a person in custody for more than 48 hours.

20. With regard to forced labour, traffic in human beings and child prostitution, attention should be drawn to the fact that Cambodia had a law prohibiting the abduction and exploitation of human beings, as well as traffic in human beings (paragraph 150 of the report). The police, non-governmental organizations and voluntary workers were devoting enormous efforts to the social rehabilitation of prostitutes and the National Children's Council was currently drafting a five-year plan to combat traffic in children as part of concerted measures by all countries in the region. The number of prison sentences imposed on those who engaged in the sexual exploitation of children, including foreign paedophiles, was constantly rising. Prostitution, particularly of children, was not only prohibited by law but also rejected by Cambodian traditions.

21. Given the availability of a cheap and abundant labour force, the country's enterprises had little need to resort to child labour. Most children in work were employed by their parents in commercial activities.

22. The enlistment of children in the army, which had been common practice under the Khmer Rouge and Democratic Kampuchea regimes, was no longer a problem in Cambodia. Only recently, the authorities had taken measures to end the practice whereby parents would place their children in the army in order to obtain their pay.

23. The CHAIRPERSON invited the Committee members who wished to do so to ask the Cambodian delegation questions concerning paragraphs 1 to 16 of the list of issues.

24. Mr. YALDEN said that he was impressed by the efforts made by the authorities to improve the human rights situation. In connection with the status of women, he welcomed the establishment of a ministry responsible for their advancement, but would like to know what tangible results it had achieved. The figures provided by the delegation and the representatives of the Secretary-General gave no precise idea of number of women holding senior posts at the national, provincial and municipal levels. Nor did the Committee have any information on the employment of women, particularly in managerial posts.

25. The question of the status of persons who were not ethnic Khmers also arose. According to the Cambodian delegation, they suffered no discrimination, yet article 31 of the Cambodian Constitution addressed the rights of Khmer citizens alone. Moreover, the wording of the 1996 Nationality Act gave the impression that there were ethnic Vietnamese minorities and indigenous peoples in Cambodia who did not enjoy the same rights as the rest

of the population. It would therefore be interesting to know the extent to which that Nationality Act and the Constitution were consistent with the Covenant.

26. In its reply, the Cambodian delegation had indicated that the authorities intended to establish a supreme commission on human rights. More precise details of the progress achieved in that respect would be welcome, particularly since it was extremely important that Cambodia should have organizations which were independent of the Government and capable of effectively ensuring the defence of persons whose rights had been violated.

27. Mr. WIERUSZEWSKI welcomed the State party's participation in a number of the human rights programmes run by the United Nations. Nevertheless, although it had declared its readiness to cooperate with the international community for the elaboration of rules by which to try crimes against humanity, the Cambodian Government had refused the assistance of a United Nations group of experts in establishing a tribunal responsible for trying such crimes. He questioned the State party's ability to institute such a tribunal without international assistance, as well as its willingness to take into account the views of the group of experts. He was also concerned by the judiciary's lack of independence. He wondered what measures were being taken, particularly by the recently created Supreme Council of Justice, to combat corruption and political pressure on judges. Article 51 of the 1994 Law on Civil Servants was particularly disturbing. Having pointed out that no inquiry had been carried out into the murder of a human rights activist killed in December 1998 on the grounds that the perpetrator had been covered by the provisions of that article, he wondered how often the article had been invoked since its entry into force.

28. Mr. KLEIN requested details concerning the efforts made to establish an efficient judicial system and in particular to provide training for judges, emphasizing the crucial importance of doing so in order to regain the trust of the population. He wished to know whether private individuals could directly invoke the Covenant before the courts and, if so, how they were informed of that right. Did non-governmental organizations play an information role in that respect, especially for the benefit of the illiterate members of the population? He was concerned by the State's lack of control over the security forces, which was illustrated by the recruitment of military personnel who had passed no examination (paragraph 373 of the initial report). Furthermore, various non-governmental organizations, including the Lawyers' Committee for Human Rights, had condemned the de facto secret prisons which existed in military bases. He asked whether military personnel exercised police functions and whether they had the same opportunities as the civilian police to lodge complaints and claim compensation.

29. Mr. BHAGWATI thanked the delegation for its replies, although he would have liked them to be more complete. He shared the concerns voiced in regard to the impunity of civil servants and military personnel and the State Party's refusal to establish an international tribunal that would try crimes against humanity. He added that even if such a tribunal were to be successfully established in Cambodia without external assistance, it would inevitably fall prey to political pressures and would not enjoy the confidence of the population. He would also like to have details concerning the Constitutional

Council, such as whether it had been created by a law, when it would commence operation, what its functions were, by whom its members were appointed and whether it could impede national laws which were inconsistent with the Covenant and, if so, in what manner. He understood that the circulars issued by the Ministry of Justice had binding force on the judicial system, that the Ministry of Justice had suspended three appeal court judges in 1998 and that a number of judges had reportedly been subjected to pressure in cases in which high-ranking officials had been implicated. He requested the delegation's comments on such cases of State interference with the judiciary.

30. Ms. CHANET said that she, too, was concerned by the current state of the Cambodian judicial system, which was partly explained by the former policy of annihilating the country's elites and live forces. Article 51 of the aforesaid 1994 Law on Civil Servants was particularly disturbing in that it was not a hangover from a former regime, but a new provision. It was the best illustration of the "culture of impunity" to which the Secretary-General of the United Nations had referred in his report. She inquired about the measures implemented by the Government to bring that culture to an end. Could the permanent National Human Rights Commission receive complaints and make recommendations to the Government, for example? The suspension of three judges by the Ministry of Justice in 1998 was particularly appalling, given that the Supreme Council of Justice was already functioning at that time. There was every reason to doubt the effectiveness of that Council, which in any case was not independent, since it consisted of the Minister of Justice and the Procurators-General. Cambodia still engaged in the practice of mass judgements and judges were traditionally connected with political parties. A full restructuring of the entire judicial system was therefore required. In regard to equality before the law, she expressed concern over the wording of article 31 of the Constitution, which guaranteed rights to "Cambodian citizens". Lastly, in connection with the right to life, she asked how the authorities were combating the scourge of antipersonnel mines afflicting the State Party.

31. Mr. KRETZMER was aware of the difficulties which faced the Cambodian authorities in reconstructing civil society following the mass killings and atrocities committed by the Khmer Rouge. It was a process which implied not only the adoption of appropriate standards, but even more so the establishment of appropriate institutions.

32. He associated himself with the questions put to the Cambodian delegation concerning the armed forces and requested fuller clarifications concerning the respective functions of the police and the army in connection with maintaining order. According to the information at his disposal, that task was often assigned to the armed forces, whereas the maintenance of order was, by definition, the job of the police.

33. Furthermore, was it true that members of the police and the armed forces used weapons to keep order? In particular, it would appear that, on certain occasions, members of the police had used hand grenades against civilians. If so, how could the authorities justify such a measure? He also inquired what other weapons could be used against civilians and what rules applied in that regard. In addition, he wished to know under what procedures an investigation could be conducted in cases where the security forces made use of their

weapons against the civilian population. He referred to two incidents in particular: the anti-government demonstration held in March 1997, during which the security forces had used their weapons, killing 16 persons, and the coup of July 1997 aimed at ousting Prince Norodom Ranariddh, in the course of which large numbers of civilians had been killed by the security forces. He wished to know whether investigations had been started to determine the accountability of State officials and what the outcome had been. Those two cases also further increased the impression of impunity.

34. In connection with the question of torture, he gathered from reading paragraph 137 of the report (CCPR/C/81/Add.12) that there were few cases of physical abuse during interrogation. Unfortunately, however, the information provided by Cambodian non-governmental organizations painted a very different picture. What measures had the Government taken to avoid instances of torture and ill-treatment during interrogation? In the list of issues (CCPR/C/65/Q/KHM/1), the Committee had asked several extremely precise questions concerning the application of article 7 of the Covenant, some of which he read out. The Cambodian delegation had not provided clear replies to all of those questions and he would be grateful if it would do so.

35. Mr. AMOR said that Cambodia had survived a terrible ordeal. A new start needed to be made, but reconstruction was a mammoth task that would take time. It was therefore understandable that the Cambodian authorities should have difficulty applying the Covenant in full. What was important was that the drive for better human rights protection should be set in motion in all spheres of Cambodian life.

36. As for the judiciary and the administration of justice, he endorsed the questions asked by other Committee members and Mr. Bhagwati in particular. There were undoubtedly obstacles in the way of improving the situation in that area, not least the fact that, at the time the report (CCPR/C/81/Add.12) had been drafted, only 139 judges had been on record for a population of 10 million inhabitants. Although it could be assumed that matters had since improved, it would be useful to know what measures had been implemented to increase the number of judges. Another worrying aspect was the politicization of judges and the party spirit which pervaded justice. In any event, the burden of the past was no justification for not introducing measures to ensure the full independence of the judiciary.

37. Concerning the question of equality between men and women, the Cambodian delegation had referred to a declaration of unconstitutionality in connection with the law establishing a ministry for women's and veterans' affairs. He wished to know what had been said in the debate on that subject. It would also be useful to have details concerning the priority given to women entering the civil service. Although it had been stated that 80 per cent of the jobs created in the civil service had gone to women, it was important to know at what levels those jobs were and in which sectors.

38. Both the constitutional provisions and the comments of the Cambodian delegation concerning the equality of men and women gave cause for optimism. Nonetheless, it would be helpful to know the facts of the situation. Could it be said that the status of women in Cambodia was satisfactory? With particular reference to the four all-women political parties, he wished to

know their true importance, their geographical distribution and their level of political representation. In any event, the policy of creating all-women parties as a means of improving the status of women was a controversial subject in many countries and he would like to know the position of the Cambodian authorities on the matter. He feared that the establishment of such parties disguised a situation that was in fact not very favourable to women, even assuming there was no bad intention. Everyone knew that built-in attitudes were important and that attempts to change them were often limited. Did Cambodia pursue an education policy aimed at combating those aspects of tradition that were discriminatory and demeaning to women?

39. Returning to the question of article 51 of the 1994 Law on Civil Servants, he wondered how a State that aspired to democracy could justify the existence of such a discriminatory provision, which gave such a poor image of Cambodia, besides encouraging practices that were hardly conducive to the promotion of human rights.

40. As for the status and treatment accorded to aliens, he was surprised to see that chapter III of the Constitution, which was devoted to the rights and duties of Cambodian citizens, contained no provision for aliens. They were purely and simply ignored in the Constitution. The Cambodian people, which had greatly suffered from discrimination in the past, should not be practising discrimination against aliens on its territory.

41. Concerning the question of links between the police and the army and the powers held by each of those institutions, he shared the concerns of Mr. Kretzmer. The army had not yet apparently acquired the status of neutrality which its position demanded and its members sometimes refused to submit to civilian authority for reasons clearly connected with its politicization. Had the Government taken sufficient measures to ensure that civilian authority was fully effective and that the police and army complied under all circumstances with national legislation and the relevant provisions of the international instruments to which Cambodia had acceded?

42. Mr. POCAR was aware of the substantial difficulties which the Cambodian authorities continued to face in the process of reconstructing civil society, despite all the efforts made.

43. He endorsed the questions asked by other members of the Committee and particularly shared the concern over the "culture of impunity" mentioned by Ms. Chanet. In that regard, he emphasized that it was imperative to delete article 51 of the 1994 Law on Civil Servants, wholly inconsistent as it was with the very essence of the Covenant. He drew attention to the provisions of article 2, paragraphs 3 (a) and (b), of the Covenant, according to which it was inadmissible for the perpetrator of a violation of rights recognized in the Covenant to disclaim responsibility on the ground that he had received an order from an authority that was not liable to prosecution. In particular, the possibilities of judicial remedy which the competent authority should develop in accordance with article 2, paragraph 3 (b), of the Covenant should never depend on the consent of a representative of the Government, the administration or any other authority. According to many official and unofficial sources, the application of article 51 of the 1994 Law had

precluded the prosecution of a number of civil servants. He would therefore like to have more precise information on the practical application of the that article.

44. In addition, it appeared that the persons responsible for enforcing the law were often former officials of the regime which was guilty of the crime of genocide. In that respect, he would have liked to see more details in the report regarding how the application of the Covenant was related to implementation of the Convention on the Prevention and Punishment of the Crime of Genocide. In his view, the Government should fully ensure that the principles contained in the Covenant could not be used, even unintentionally, to impede application of that Convention, particularly article 4 thereof.

45. Concerning the Constitutional Council, he understood that it had the power to state its opinion on the constitutionality of laws either before or after their promulgation, chiefly on the basis of article 31 of the Constitution. He wished to know the exact status of the Covenant and, in particular, whether it had only an interpretive value in the jurisprudence of the Constitutional Council or whether it could be invoked directly. Also, would a ruling of invalidity by the Constitutional Council have retroactive effect?

46. While he had taken note of the provisions of article 122 of the Constitution, he was still not sure whether the President of the Assembly was obliged to consider the request of a citizen who challenged the constitutionality of a law, or whether the matter was left to the discretion of political party representatives, which would in practice severely limit the remedies open to citizens.

47. Having noted that article 51 of the 1994 Law on Civil Servants was currently under discussion, he wondered whether the matter had been brought to the attention of the Constitutional Council. If so, the provision could easily be annulled, since it was blatantly inconsistent with the provisions of the Covenant and might therefore be similarly inconsistent with article 33 of the Cambodian Constitution.

48. Mr. SOLARI YRIGOYEN said he hoped for the earliest possible full application of article 31, paragraph 1, of the Cambodian Constitution, which would guarantee the promotion and protection of human rights. The end of the Khmer Rouge regime had marked the start of an extremely important stage in the history of Cambodia and substantial progress had already been achieved, despite occasional setbacks, such as the human rights violations perpetrated in 1997. Although the Cambodian authorities were making sustained efforts to bring to justice those responsible for the crimes committed under the Khmer Rouge regime, the feeling of impunity had still not been eradicated. He endorsed the requests for further clarifications on the subject made by other members of the Committee. He further cited the case of Prime Minister Hun Sen, who, in 1998, had received Khieu Samphan and Nuon Chea, two high officials of the Khmer Rouge regime who might have been implicated in serious human rights violations. Such an attitude on the part of the Cambodian authorities further accentuated the impression of impunity.

49. The Cambodian delegation had not touched upon the question of extrajudicial executions, although the Special Rapporteur on extrajudicial, summary or arbitrary executions of the Commission on Human Rights and the General Assembly of the United Nations had expressed strong concern on the subject, particularly with regard to the impunity enjoyed by the authors of such violations. He cited the case of Captain Sovanna and his wife and son, who had been forcibly taken from their home and shot to death a few metres away. Another example was that of Zhach Kim Sang, a supporter of Prince Norodom Ranariddh, who had been attacked in the capital and had reportedly been killed by police bullets. There were also reports that, in September 1998, plain clothes police officers had taken members of the opposition to a suburb of Phnom Penh, where they had been beaten. Although the authorities claimed that the persons concerned were thieves on the run, the victims were said to be opposition members. He would be grateful if the Cambodian delegation could provide further information on all of those cases.

50. Noting that the head of the Cambodian delegation had recognized the assistance provided by United Nations officials in Cambodia in the field of human rights, he pointed out that some of those officials had experienced hostility and that one had even been physically assaulted. Could the Cambodian delegation state whether it was true that the civilian and military police had used electric prods, high-pressure jets of dirty water and explosives to disperse non-violent demonstrators? Was it true that the demonstrations which had taken place between 7 and 15 September 1998 had resulted in deaths and injuries, and if so, how many?

51. The final question concerned the equality of the sexes: despite the excellent intentions expressed in Cambodian legislation, such equality did not apparently exist in practice. On the contrary, male domination in Cambodian society was striking. Could the delegation indicate the measures which had been taken or were being planned to enhance the participation of women in public life?

52. Mr. Amor took the Chair.

53. Ms. EVATT said that she was disappointed by the incomplete replies given by the Cambodian delegation to the written questions, which had been transmitted to it some considerable time before. Her own questions related to impunity, in which connection she wished to know how many individuals, other than Ta Mok, had been brought to justice and would be prosecuted for their responsibility in the atrocious crimes of the Khmer Rouge regime. The replies given by the delegation to the written questions on the independence of the judiciary were disappointing, particularly since the problem of impunity had been addressed in the report (para. 204), which also mentioned judges' fears (paras. 205 and 206), corruption of judges (para. 207) and inequalities in legal defence (para. 208). It was understandable that the deep-seated cause of the situation should relate to the difficulties entailed in establishing order in civil society after so many massacres and so many departures of elites fleeing the country. What were the authorities doing to improve judges' pay and to take disciplinary measures in cases where the rules of the judiciary were violated? Nothing had been said on that subject.

54. In connection with item 8 on the list concerning discrimination against women, she was surprised by the delegation's response, according to which there was no gender discrimination in Cambodia. In fact girls were under-represented in educational establishments and received a much poorer education than boys. Moreover, the consequences were borne out in the employment field: women were at the bottom of the salary scale and never represented more than 50 per cent of the workforce, even in the traditionally female-dominated sectors, such as teaching and nursing care. They were afforded no protection against discrimination or harassment and their participation in political life was negligible. In Cambodian society, the typical attitude seemed to be that women should be confined to traditional and stereotyped roles. No mention had been made of plans to remedy that situation, which was particularly disappointing since one could not but help but make a connection between the poor education which women received and the growing problem of traffic in women for prostitution. She would like a detailed reply from the delegation indicating a willingness to change.

55. Concerning impunity and extrajudicial executions, she said that Committee members were particularly interested in knowing how many members of the security forces had been brought to justice to answer for the scores of deaths and disappearances resulting from the coup of July 1997, the election demonstrations of July 1998 and the grenade attack of March 1997 (in which 16 had died). The reply would offer proof of the public authorities' intention to take action against the persons responsible for those acts. She also wished to know what was being done to train members of the police, improve discipline and reform the operation of the force. Lastly, no real reply had been provided to the questions contained in item 15 of the list of issues concerning forced labour, traffic in human beings and child prostitution. She would appreciate proper replies.

56. Ms. Medina Quiroga took the Chair again.

57. Mr. SCHEININ began by expressing his solidarity with the Cambodian people, who, after the great suffering they had endured, were again making efforts to build a new and democratic society that respected human rights. He was aware that much had been done, but a great deal still remained to be achieved and he hoped that new initiatives in that connection would emerge from the exercise under way between the Committee and the delegation.

58. The first key issue concerning Cambodia related to questions 11 to 15 of the list of issues, in particular impunity. He supported the views expressed by the other Committee members, who had clearly affirmed that article 51 of the 1994 Law on establishing official statutes for ministers and civil servants should be repealed and remained unconvinced by the account of political considerations, which, according to the delegation, had prevented such action being taken.

59. In his view, the second key issue concerned the independence of the judiciary. He endorsed the remarks already made on that point and would like concrete information on the steps taken to eradicate the corruption inherent in judicial practice in Cambodia and to eliminate interference by the Executive in legal proceedings, as occurred when political figures made statements concerning the culpability of accused persons before judgement had

been pronounced. Such practices were unjustified, even in a country where efforts were being made to establish a judicial system that respected all the guarantees set forth in article 14 of the Covenant, which was unquestionably difficult in a society where most judges had been murdered.

60. In regard to questions 14 to 16 on the list of issues concerning forced labour, traffic in human beings and child prostitution, he wished to know more about the law applicable to traffic in human beings, prostitution and the commercial exploitation of children and how it was enforced. According to the non-governmental organizations which provided information to the members of the Committee, 55,000 women and children were engaged in prostitution in Cambodia. Of those, 30 to 35 per cent were said to be aged 17 years or under. The delegation was invited to comment on that matter and provide details of the extent of traffic in human beings for purposes of prostitution, outgoing from Cambodia to Thailand and other Far Eastern countries, and incoming to Cambodia from Viet Nam and other countries in the region. Concerning those practices, he wished to know which acts and which authors of such acts were targeted by the relevant Cambodian legislation. Given the complexity of the crime network involved, he wondered whether current Cambodian legislation was a suitable tool with which to prosecute all those implicated in such activities.

61. With regard to the special protection due to children under the Covenant, he would like further information on the traffic in children for purposes of commercial exploitation in the light of what was said in paragraph 150 of the report, namely that the law on the procurement of persons for sale or prostitution stipulated heavier penalties for the perpetrators of that crime if the victim was a minor under 15 years of age. If an age limit were to be applied only in the case of victims of sexual exploitation for commercial purposes, it was disturbing that the protection did not extend to all persons aged under 18 years of age who were victims of that type of exploitation.

62. Information provided by a non-governmental organization cited the case of a prostitute who, in June 1998, had been beaten to death in a brothel by a person who had subsequently been arrested and ultimately acquitted for lack of evidence. In its comments, the non-governmental organization had established a connection between that episode and Cambodia's prevailing climate of impunity. He asked the delegation whether there was any penal legislation on traffic in human beings and the commercial exploitation of children, and whether it was effective, or whether the links between the businessmen, the military authorities and senior officials impeded the application of penal sanctions against persons implicated in that type of crime. Could the delegation provide figures on the number of actual prosecutions in cases of traffic in human beings and the sexual exploitation of children for commercial purposes?

63. With regard to forced labour and article 8 of the Covenant, paragraph 151 of the report mentioned Cambodia's ratification of the International Labour Organization (ILO) Convention concerning the Abolition of Forced Labour. He had doubts regarding a sub-decree of 1994 (see annexes), which established compulsory days of irrigation and agricultural work, which could be required of all citizens for up to 15 days per year. He would like

to know what justified such legislation, which did not appear to comply with the conditions set forth in article 8, paragraphs 3 (a) and (c) (subparagraph (iv)) of the Covenant.

64. The CHAIRPERSON invited the Cambodian delegation to reply to the oral questions which the members of the Committee had just asked.

65. Mr. OM Yentieng (Cambodia) first stated that he would do his utmost to collate the questions asked by the Committee members and to circulate their comments and observations in Cambodia, adding that a seminar might be organized to study the comments which the Committee members had conveyed to the delegation.

66. He said that he would endeavour to clarify some of the points raised in the questions. First, in connection with the crime of genocide and impunity, which had been the subject of a report by the Group of Experts for Cambodia (A/53/850-S/1999/231) on the feasibility of establishing a tribunal to bring Khmer Rouge leaders to justice, the delegation recalled that the Khmer Rouge regime, led initially by Pol Pot and then by Khieu Sampan, had lasted precisely from 17 April 1975 to 6 January 1979, and that since its overthrow in 1979 its leaders had never been punished. Cambodians were victims who had not yet obtained justice. Had anyone wondered what Cambodians had felt when they had seen those individuals, who had left the country, appearing as representatives of the whole Cambodian people at the United Nations, before the international community, where they had been welcomed with a diplomatic visa and every protection granted to important personalities?

67. Questions had been asked concerning the fact that Hun Sen had received Khieu Sampan and Nuon Chea at his place as if they had been friends. In fact, the intention behind that gesture had been to make it clear to the whole country that the Khmer Rouge regime had well and truly ended by 25 December 1998. Furthermore, the event had been filmed and broadcast across the country so that the whole population, in town and country alike, would be fully aware that those men had returned to civilian society. It was by no means a question of affording them protection to escape the law.

68. Concerning the report of the three United Nations experts (A/53/850-S/1999/231), he wanted to point out in the first place that it was already 20 years since the regime had toppled and that a tribunal was to have been established in accordance with the Charter of the United Nations, in other words by the Security Council. That had not yet been done. The fact was that Cambodia's internal affairs were concerned. Could the Security Council suddenly decide to establish an international tribunal to try Khmer Rouge leaders, considering that the Cambodians themselves had set up a special tribunal for that purpose? Cambodia had manifestly been in favour of a tribunal that would try the Khmer Rouge leaders, since it had actually established one, but that tribunal had not received international recognition.

69. In their report (A/53/850-S/1999/231), the three experts had analysed all the problems that needed considering and settling before the criminals could be tried. They had not demanded, but had recommended an international tribunal, while acknowledging that a national tribunal was a possibility, provided that international rules were applied. In that case, certain

conditions had to be respected, the first of which was that the law should be scrupulously applied. But the law stipulated that pre-trial detention should not exceed a maximum period of six months, after which a detainee had to be either tried or released. Some of the Khmer Rouge leaders were already in detention, and some had been for over three months, so that only about two months were left in which to prepare their case and take them to trial. Cambodia was awaiting the assistance of an expert, who was to draft a bill establishing a special tribunal. If the law was not ready in time, those held in detention could not be tried and would therefore have to be released. What then?

70. The second condition was the transparency of the trial. The Cambodians had planned to hold open hearings in a courtroom with seating for 600 persons so that the public could see and hear the proceedings. The third condition was that accused persons should be fully able to exercise the right of defence. To that end, they should be offered the services of a lawyer, as well as every procedural guarantee, in other words, the guarantee of the right of all accused persons to a defence. Under Cambodian law, any pieces of evidence in a case had to be communicated to the accused or his lawyer, who should be allowed sufficient time to study them. That procedure had been followed in the case of Ta Mok.

71. Concerning the establishment of a tribunal to try the persons presumed responsible for crimes of genocide or war, Cambodia had three options, apart from that of an international tribunal, which had been considered by the Group of Experts (A/53/850-S/1999/231). First of all, there was the possibility that the persons concerned should appear before an existing Cambodian court, which would conduct the trial on its own. Secondly, a domestic tribunal could conduct the trial with the cooperation of foreign experts, in the form of foreign judges and procurators who would assist the Cambodian judges and procurators. The third option, favoured by the Cambodian Government, but which required the approval of the National Assembly, was that of a domestic tribunal functioning with the active assistance of foreign judges and procurators, who would play a direct part in the proceedings. In Ambassador Hammarberg's view, that constituted a mixed solution. According to the Cambodians, it was a domestic tribunal with the active cooperation of foreign judges and procurators. However, establishing such a tribunal meant submitting a bill to the National Assembly. The Cambodian side had already prepared such a bill, which had been drafted by the Supreme Court and submitted to the National Assembly. The international community, however, had asked Cambodia to accept the assistance of an expert to prepare the bill. Cambodia had agreed and was still awaiting the expert.

72. The CHAIRPERSON said that the delegation would continue to reply to oral questions at the next meeting.

The meeting rose at 1.05 p.m.